

From: Stacey Champion and Abhay Padgaonkar  
 Date: December 10, 2020  
 Docket: APS Rate Review (E-01345A-19-0003); APS Rate Case (E-01345A-19-0236)  
 Re: **Don't fall for APS's continued gaslighting**

Dear Commissioners:

APS admitted a year ago that its rate comparison tool was providing "overstated projections" at the time of the rate increase in **August 2017**.<sup>1</sup> APS has now admitted the other obvious fact that its rate comparison tool was, in fact, "in service at that time"<sup>2</sup> — only *after* Comm. Olson called out the discrepancy in the Energytools Report about the timeline. In short, APS has finally confirmed what Comm. Kennedy's had correctly concluded in Dec. 2019, namely that **"the evidence shows the tool has been faulty from the very start."**<sup>3</sup>

The Energytools Report, however, falsely claimed that **"APS began offering the rate comparison tool to residential customers in August of 2018"** and that no issues had existed with the tool prior to that, citing APS Response to Staff Data Request No. 11, Question No. 3(d).<sup>4</sup> This was and is clearly false. **And yet, APS is still gaslighting the Commission by making it appear that the independent investigation by Energytools was somehow restricted to the "GridX" rate comparison tool with the timeline starting in "August 2018."**

Nothing is farther from the truth as can be seen here from the Major Work Elements (Section 3.1 on page 4) of the RFP, which: a) Does **not** mention GridX even once and b) Specifically sets the timeline for the investigation of

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| 1) Researching the timeline surrounding the development, implementation and testing of the Rate Comparison Tool, <u>going back to August 19, 2017</u> the effective date of the new rates authorized in Decision No. 76295. |
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"the Rate Comparison Tool, **going back**

**to August 19, 2017**, the effective date of the new rates authorized in Decision No. 76295."

APS has compounded the falsehood and perpetuated its wishful thinking by stating that the Energytools Report "accurately addresses the timeline and issue with the rate comparison tool." With these blatant and continued transgressions in mind, the Commission must reach the following inescapable conclusions:

- 1) **Energytools Failed to Quantify Damage:** Energytools failed to investigate and quantify the damage during the most critical period, namely August 2017-August 2018, while parroting APS's false narrative (Fatal Flaw #1). This and five other fatal flaws in our rebuttal,<sup>5</sup> compel the Commission (and the AG) to disregard the false finding in the Energytools Report that APS has adequately compensated customers. Energytools couldn't even get the basic fact right about *when* the rate comparison tool's public use began — resulting in its failure to fully account for the harm caused to hundreds of thousands of customers who were misled onto more expensive plans, which contributed to massive overearnings by APS since 2017.
- 2) **APS Misled the ACC Investigation:** APS has continued to provide misleading information about the rate comparison tool as APS has done in its latest response to Comm. Olson. By contributing to Energytools's blatantly wrong assumption about when the public use of the faulty rate comparison tool began (as August 2018 instead of the actual timeline of August 2017) or failing to correct it or both, APS appears to have actively misled the Commission's independent investigation to shield itself from further damage.

<sup>1</sup> APS Response at: <https://docket.images.azcc.gov/E000004180.pdf>, 1

<sup>2</sup> APS Response at: <https://docket.images.azcc.gov/E000010430.pdf>

<sup>3</sup> Comm. Kennedy's Letter dated December 13, 2019" at: <https://docket.images.azcc.gov/E000004091.pdf>, 1-2

<sup>4</sup> Energytools Report at: <http://docket.images.azcc.gov/E000008482.pdf>, 9

<sup>5</sup> Energytools Rebuttal by Champion and Padgaonkar (Six Fatal Flaws in the Energytools Report) at: <https://docket.images.azcc.gov/E000009114.pdf>

As if the unjust and higher-than-advertised 2017 rate increase and the flawed rate design accompanying it were not bad enough, the flawed rate comparison tool actively misled and steered hundreds of thousands of captive ratepayers onto far more expensive rate plans. As a result, APS may have overearned more than half a billion dollars in revenues over the 3+ years since the 2017 rate increase.<sup>6</sup> (Comm. Kennedy calculated the annual revenue surplus by APS to be as much as **\$171.3 million** as a result of more than half of APS's residential customers *still* not being on their most economical plan.<sup>7</sup>)

**How does the Commission plan to hold APS accountable and address the triple-whammy experienced by the ratepayers in the pending rate case?**

**PS:** We are still waiting for APS's response to Comm. Kennedy's request from five weeks ago directing APS to put in writing and acknowledge or answer the concerns raised in our rebuttal.<sup>8</sup> These serious concerns center around APS's written statement to the Commission about its lack of knowledge prior to November 14, 2019<sup>9</sup> — despite clear evidence to the contrary of APS's knowledge for months prior to November 14, 2019 about the data-shift and data integrity errors related to the rate comparison tool.

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<sup>6</sup> Padgaonkar Comments at: <https://docket.images.azcc.gov/E000008342.pdf>

<sup>7</sup> Comm. Kennedy at the 3:25:00 mark in the August 5, 2020 ACC Open Meeting at:

[https://azcc.granicus.com/player/clip/4054?view\\_id=3&redirect=true&entrytime=12300](https://azcc.granicus.com/player/clip/4054?view_id=3&redirect=true&entrytime=12300)

<sup>8</sup> Champion and Padgaonkar Comments at: <https://docket.images.azcc.gov/E000010326.pdf>

<sup>9</sup> APS Response at: <https://docket.images.azcc.gov/E000003736.pdf>